

Article - Criminal Law

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§3–805.

(a) (1) In this section the following words have the meanings indicated.

(2) “Electronic communication” means the act of transmitting any information, data, writing, image, or communication by the use of a computer or any other electronic means, including a communication that involves the use of e–mail, an instant messaging service, an Internet website, a social media application, a network call, a facsimile machine, or any other Internet–based communication tool.

(3) “Electronic conduct” means the use of a computer or a computer network to:

(i) build a fake social media profile;

(ii) pose as another, including a fictitious person in an electronic communication;

(iii) disseminate or encourage others to disseminate information concerning the sexual activity, as defined in § 3–809 of this subtitle, of a minor;

(iv) disseminate a real or doctored image of a minor;

(v) engage or encourage others to engage in the repeated, continuing, or sustained use of electronic communication to contact a minor;

(vi) make a statement to provoke a third party to stalk or harass a minor; or

(vii) subscribe a minor to a pornographic website.

(4) “Instant messaging service” means a computer service allowing two or more users to communicate with each other in real time.

(5) “Interactive computer service” means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a system that provides access to the Internet and cellular phones.

(6) “Social media application” means any program, software, or website that allows a person to become a registered user for the purpose of establishing personal relationships with one or more other users through:

- (i) direct or real-time communication; or
- (ii) the creation of websites or profiles capable of being viewed by the public or other users.

(7) “Social media profile” means a website or profile created using a social media application.

(b) (1) A person may not maliciously engage in a course of conduct, through the use of electronic communication, that alarms or seriously annoys another:

- (i) with the intent to harass, alarm, or annoy the other;
- (ii) after receiving a reasonable warning or request to stop by or on behalf of the other; and
- (iii) without a legal purpose.

(2) A person may not use an interactive computer service to maliciously engage in a course of conduct that inflicts serious emotional distress on a minor or places a minor in reasonable fear of death or serious bodily injury with the intent:

- (i) to kill, injure, harass, or cause serious emotional distress to the minor; or
- (ii) to place the minor in reasonable fear of death or serious bodily injury.

(3) A person may not maliciously engage in an electronic communication if:

- (i) the electronic communication is part of a series of communications and has the effect of:
 - 1. intimidating or harassing a minor; and
 - 2. causing physical injury or serious emotional distress to a minor; and

intends to:

- (ii) the person engaging in the electronic communication
 - 1. intimidate or harass the minor; and
 - 2. cause physical injury or serious emotional distress to the minor.

(4) A person may not maliciously engage in a single significant act or course of conduct using an electronic communication if:

the effect of:

- (i) the person's conduct, when considered in its entirety, has
 - 1. intimidating or harassing a minor; and
 - 2. causing physical injury or serious emotional distress to a minor;

to the minor; and

- (ii) the person intends to:
 - 1. intimidate or harass the minor; and
 - 2. cause physical injury or serious emotional distress

request to stop;

- (iii) in the case of a single significant act, the communication:
 - 1. is made after receiving a reasonable warning or
 - 2. is sent with a reasonable expectation that the recipient would share the communication with a third party; or
 - 3. shocks the conscience.

(5) A person may not maliciously engage in electronic conduct if:

- (i) the act of electronic conduct has the effect of:
 - 1. intimidating or harassing a minor; and

2. causing physical injury or serious emotional distress to a minor; and

(ii) the person intends to:

1. intimidate or harass the minor; and
2. cause physical injury or serious emotional distress to the minor.

(6) A person may not violate this section with the intent to induce a minor to commit suicide.

(c) It is not a violation of this section for any of the following persons to provide information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic communication or to conduct surveillance of electronic communication, if a court order directs the person to provide the information, facilities, or technical assistance:

(1) a provider of electronic communication;

(2) an officer, employee, agent, landlord, or custodian of a provider of electronic communication; or

(3) a person specified in a court order directing the provision of information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic communication or to conduct surveillance of electronic communication.

(d) Subsection (b)(1) through (5) of this section does not apply to a peaceable activity:

(1) intended to express a political view or provide information to others; or

(2) conducted for a lawful purpose.

(e) (1) A person who violates subsection (b)(1), (2), (3), (4), or (5) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$10,000 or both.

(2) A person who violates subsection (b)(6) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

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